

**IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,
Plaintiff,

v.

NELSON ONARO, D.O.,
Defendant.

Case No. 20-cr-089-RAW
Hon. Chief Judge Ronald A. White

**UNITED STATES' UNOPPOSED MOTION FOR EXTENSION OF TIME
TO RESPOND TO DEFENDANT'S MOTION TO WITHDRAW HIS GUILTY PLEA**

COMES NOW the United States, by counsel, Christopher Jason, Trial Attorney, United States Department of Justice, and files this Unopposed Motion for Extension of Time to Respond to Defendant's Motion to Withdraw his Guilty Plea ("Motion"). The United States respectfully requests this Court allow the Government an extension of its July 26, 2022 deadline to file a Response to the defendant's Motion to Withdraw his Guilty Plea ("Motion") because counsel needs the opportunity to obtain and review the transcript from the change of plea proceeding to best determine how to respond to the defendant's allegations in the Motion.

The defendant, Nelson Onaro, was indicted on 24 counts of Unlawful Distribution of Controlled Substances, in violation of 21 U.S.C. § 841(a)(1), on or around September 14, 2020. After substantial negotiation between the parties, and by agreement of the parties, the Government filed a superseding Information on June 29, 2021, alleging six counts of violations of 21 U.S.C. § 841(a)(1). On June 30, 2021, the government filed a signed plea agreement between the parties through which Onaro agreed to plead guilty to the Information. On the same day, Onaro appeared before Magistrate Judge Kimberly E. West. At that time, he entered a Waiver of Indictment and a Consent to Proceed before a Magistrate Judge for Change of Plea, and then ultimately entered a change of plea to guilty to the Information pursuant to the terms of the plea agreement. This

Honorable Court set sentencing for July 14, 2022.

On June 27, 2022, the Supreme Court of the United States issued its opinion in *Xiulu Ruan v. United States*, 142 S. Ct. 2370 (2022). Based in part on the Supreme Court's holding in *Ruan*, Onaro filed the Motion on July 11, 2022, and requested a continuance of his sentencing during the pendency of his Motion. The Court, through a minute order issued on July 19, 2022, directed the Government to respond to the Motion no later than July 26, 2022.

As the Court is aware, Federal Rule of Criminal Procedure 11(b) outlines the circumstances in which a guilty plea should be accepted, including determining the voluntary and intelligent waiver of all requisite constitutional and statutory rights such as those outlined in Federal Rule of Criminal Procedure 11(b)(1)(A) – (O). *See* Fed. R. Crim. P. 11(b). The Government respectfully avers that it needs the transcript of Onaro's Change of Plea proceedings to adequately assess the defendant's knowing and voluntary waiver of his constitutional rights before Magistrate Judge West on June 30, 2021. The Government also needs the transcript from June 30, 2021 to adequately address the defendant's contentions in his Motion. Fed. R. Crim. P. 11(d)(2)(B) outlines the circumstances in which a defendant may withdraw a plea of guilty prior to imposition of a sentence and requires that the defendant "...show a fair and just reason for requesting the withdrawal." Fed. R. Crim. P. 11(d)(2)(B). In the Motion, Onaro alleges that he "...consistently stated to the court of his legal and factual innocence. Defendant's consistency was such that Defendant's counsel was concerned the court may reject his plea." Mot. at 3. The Government must assess Onaro's purported claims of legal and factual innocence at the plea hearing to appropriately assess the Motion's allegations, and ultimately to respond to the contention that the defendant has shown a fair and just reason for requesting the withdrawal of his guilty plea.

The Government has consulted with defense counsel, Zachary Enlow, about the need to

obtain the transcript and the requisite request to extend the deadline for the Government's responsive filing. Attorney Enlow, on behalf of the defendant, has no objection to the Government's Motion for Extension of Time to Respond to the Motion.

CONCLUSION

WHEREFORE, the Government respectfully requests that this Honorable Court grant the Government's Unopposed Motion for Extension of Time to Respond to Defendant's Motion to Withdraw His Guilty Plea, and to provide Government counsel time to obtain and review the transcript from the June 30, 2021 change of plea hearing to appropriately respond to the defendant's Motion.

Respectfully submitted,

CHRISTOPHER J. WILSON
United States Attorney

LORINDA LARYEA
Acting Chief, Fraud Section
Criminal Division
United States Department of Justice

By: s/ Christopher Jason
CHRISTOPHER JASON
United States Department of Justice
Criminal Division, Fraud Section
Trial Attorney

CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of July 2022, the foregoing Motion for Extension of Time to Respond to Defendant's Motion to Withdraw His Guilty Plea was filed with the Clerk of the Court using the CM/ECF System, which will send notice and constitute service of such filing, to counsel of record for defendant Nelson Onaro.

s/ Christopher Jason

CHRISTOPHER JASON

United States Department of Justice

Criminal Division, Fraud Section

Trial Attorney